

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**HUMBERTO GALVAN,**

**Applicant,**

**v.**

**Case No. CIV-08-0950 MV/LAM**

**RODDIE RUSHING, Warden,**

**Respondent.**

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**


**THIS MATTER** is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 8*) (hereinafter, "PF&RD"), filed on May 26, 2009. No party has filed objections to the PF&RD, and the deadline for doing so has passed. Accordingly, the Court has determined that it will adopt the PF&RD; grant the Government's Motion to Dismiss Petitioner's Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 Filed on September 30, 2008 (*Doc. 5*), without an evidentiary hearing; deny the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Attachment 6 to *Doc. 2*); and dismiss this case **without prejudice**.

**IT IS THEREFORE ORDERED** that the Proposed Findings and Recommended Disposition (*Doc. 8*) are **ADOPTED** by the Court.

**IT IS FURTHER ORDERED** that the Government's Motion to Dismiss Petitioner's Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 Filed on September 30, 2008 (*Doc. 5*) is **GRANTED**, without an evidentiary hearing.

**IT IS FURTHER ORDERED** that the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Attachment 6 to *Doc. 2*) is **DENIED**, and this case is **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 12(h)(3) for lack of subject matter jurisdiction.

**IT IS SO ORDERED.**



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HONORABLE MARTHA VÁZQUEZ  
UNITED STATES DISTRICT JUDGE